

DEPARTMENT OF FISH AND GAME

SAN JOAQUIN VALLEY AND SOUTHERN SIERRA REGION
1234 East Shaw Avenue
Fresno, California 93710
(559) 243-4014



September 10, 1999

Mr. Todd Thompson
State Water Resources Control Board
Division of Water Quality
Post Office Box 944213
Sacramento, California 94244-2130

Dear Mr. Thompson:

Draft Environmental Impact Report (DEIR)
for General Waste Discharge Requirements
for Biosolids Land Applications

We have reviewed the DEIR referenced above. The subject of the DEIR is a proposed General Order (GO) for General Waste Discharge Requirements for the Discharge of Biosolids to Land for Use in Agricultural, Silvicultural, Horticultural and Land Reclamation Activities in California. Biosolids are defined as sewage sludge that has been treated, tested, and shown to be capable of being used beneficially as a soil amendment for agriculture, silviculture, horticulture and land reclamation. The GO would establish a notification and permit review process applicable to all persons and public entities intending to apply biosolids. The GO defines discharge prohibitions, discharge and application specifications, transportation and storage requirements, and general procedures and provisions to which all land appliers would be required to adhere. Our comments follow:

Of particular importance to the Department of Fish and Game's San Joaquin Valley Southern Sierra Region (Department) is the potential for the application of biosolids to result in the conversion of "vacant" agricultural lands that may contain native vegetation, vernal pools, and other wetlands and may support a variety of wildlife including listed, sensitive and otherwise protected species, to more intensive agricultural use. The Draft Environmental Impact Report (DEIR) does discuss this impact. As part of the biosolids discharge permit process, prospective biosolids dischargers must provide proof to the California Regional Water Quality Control Board (Regional Board) that the Department has received a copy of a Notice of Intent (NOI). Specific pre-application reports must include information on whether the site contains habitat, unique or sensitive communities, or sensitive status species. The pre-application

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must also indicate whether it has been fallow for more than a year. Mitigation must be proposed as part of the pre-application.

It is unclear if and/or how the Regional Board will determine when the proposed mitigation will be deemed sufficient to mitigate for impacts. We typically recommend that prior to approval of a specific project (in this case application of biosolids), the project applicant should be able to show a cultivation history of the site back to 1985. If the project site was converted to intensive agriculture after 1985, then the applicant should be able to show the conversion was in compliance with State and Federal laws and regulations regarding wetlands and endangered species protection. Mitigation for loss of sensitive species or habitat should include some level of off-site habitat replacement. Should the Project have the potential to result in the "take" of a State- and or Federally-listed species, the discharger would need to obtain appropriate State and/or Federal "take" authorizations. Take of any fully-protected species is identified in Fish and Game Code Sections 3511, 4700, 5050 and 5515.

We recommend that the final EIR and associated permitting actions include more specific treatment of habitat conversion impacts of biosolids application.

If you have any questions regarding these comments please contact Ms. Donna Daniels, Environmental Specialist III, at the address or telephone number provided on this letterhead.

Sincerely,

for W. E. Loudermilk
W. E. Loudermilk
Regional Manager

cc: See Page Three

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(cont)

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cc: California Regional Water
Quality Control Board
Central Valley Region
3614 East Ashlan Avenue
Fresno, California 93726

United States Army
Corps of Engineers
Central Valley Office
1325 J Street
Sacramento, California 95814-2922

United States Fish and
Wildlife Service
3310 El Camino, Suite 130
Sacramento, California 95821

Responses to Comments from the California Department of Fish and Game

- 3-1. This comment addresses the adequacy of the mitigation measures proposed for biological resources. The commenter states that the SWRCB should request cultivation history back to 1985 from the applicator for the site where biosolids are to be applied. This request has been considered; however, no changes to the mitigation measures have been made in response to this comment. Generally, land application of biosolids will occur on sites where agricultural operations are ongoing. In those cases where applications are submitted for the land application of biosolids and the proposed site has been fallow for more than 1 year, biological reports, as stated in Mitigation Measures 7-1 and 7-2, would be prepared and submitted to the RWQCB with the notice of intent (NOI). These reports also will be provided to DFG. Measures will be included in the reports to avoid, reduce, or compensate for biological impacts, if necessary. DFG will be able to forward concerns to the RWQCB if it finds that proposed mitigation measures are not adequate to fully protect sensitive species or habitat.

Also see Response to Comment 1-7.

The commenter also expresses concern for the land application of biosolids to affect wetlands. The proposed GO specifically states that biosolids may not be applied within 100 feet of surface waters, including wetlands, creeks, ponds, lakes, underground aqueducts, and marshes. Furthermore, because the draft EIR is a programmatic EIR, the level of detail provided in the mitigation measures is appropriate.